

## **Meeting Minutes**

### **Zoning Board of Adjustment**

Tuesday, July 8, 2014  
Ankeny City Hall – City Council Chambers  
410 W. First Street, Ankeny, Iowa

#### **CALL TO ORDER**

The July 8, 2014 regular meeting of the Zoning Board of Adjustment was called to order at 5:00 pm by Chairman M.Ott. Members present: C.Dissell, B.Friest, M.Ott, K.Tomlinson. Absent: N.Sungren. Staff present: E.Bodeker, E.Carstens, J.Gould, E.Jensen, T.Kuhn.

#### **AMENDMENTS TO THE AGENDA**

There were no amendments.

#### **MINUTES OF THE JUNE 17, 2014 MEETING**

Motion by B.Friest to approve the meeting minutes as submitted. Second by K.Tomlinson. Motion carried 4 - 0.

#### **COMMUNICATIONS / CORRESPONDENCE**

M.Ott acknowledged correspondence was received for #14-26 and will be filed as part of public hearing #14-26.

#### **BUSINESS ITEMS**

##### **#14-23 & 14-24**

##### **DRA Properties**

##### **The Courts at Otter Creek Plat 2**

##### **RE: Zoning Line Adjustment & Rear yard setback**

Chairman M.Ott opened the public hearings.

Ted Rapp, DRA Properties, 1525 NE 36<sup>th</sup> Street, Ankeny stated that this is the second plat of a townhome project at the entrance to Otter Creek Drive. The first plat included 8 lots that are currently being built on, Plat 2 will have 8 additional lots. He explained that when the original Otter Creek Redevelopment Plat was brought forward in 2006, lines were drawn based on probable use; flood plain and the drainage corridor at Otter Creek were also considered. On the eastern side of Otter Creek Drive there is land originally owned by the City as part of a land swap; they are now working with the City is to have that property deeded back to DRA in order to create a more geometrically equal distance from the curb roadway for the fronts of the townhome units. The request to move the zoning line from R-1 to C-2, a distance of 34 feet at the widest point will place all of the townhome ground in the C-2 zone district. Mr. Rapp stated that the second request is to allow a 30 foot rear yard setback for Lots 7 & 8, explaining that the rear yards for these units, as well as the units to the south are golf course and the interstate; a lesser rear yard setback should have no impact on adjacent neighbors.

B.Friest asked what Outlot P will be. Mr Rapp responded that it will be dedicated to the City as park. He added that the other outlots on the plat will be deeded to the adjoining lots. They fall within the 100 year floodplain and as such will be used for green space in the lots, owned by the owners without maintenance; basically they fall into the Otter Creek Corridor.

C.Dissell said that this looks similar to the way the first plat was done. Mr.Rapp replied that it is.

**Staff Report:** E.Bodeker reported that there are two separate requests; one to move the zoning boundary along the western plat boundary of The Courts of Otter Creek Plat 2 a distance of up to 34 feet, to match the proposed plat boundary line. The second request is a 10-foot variance to allow a 30-foot rear yard setback for Lots 7 & 8 in the proposed plat. She explained

that the plat is located north of NE 36<sup>th</sup> Street and the Courts of Otter Creek Plat 1 and east of NE Otter Creek Drive and is currently zoned C-2 with conditions and R-1 with the C-2/R-1 zoning line located near the western boundary of the proposed plat. The proposal is to adjust the C-2/R-1 zoning line to the east to align with the proposed plat boundary, a distance up to 34 feet so that the plat would be zoned entirely C-2 with conditions. City code requires that the zoning district boundaries act as property lines in determining required setbacks. The proposed zoning district change does not create any additional lots, it cleans things up from an enforcement point of view and allows the front setback line to be consistently measured from the western plat boundary line. Staff position is to approve the requested zone district change, a distance of up to 34 feet, along the western boundary of the proposed plat, The Courts of Otter Creek Plat 2.

E.Bodeker reported that the second request is for a 10-foot variance to allow a 30-foot rear yard setback for Lots 7&8. The Courts of Otter Creek Plat 2 includes 8 lots for the construction of 4 single family bi-attached homes along with 8 outlots that will be deeded and tied to the adjacent Lots 1-8. She explained that the rear yard setback for Lots 1-8 will be measured from the eastern edge of the outlots allowing the developer to keep floodplain off of developable lots and allowing the rear setbacks to be met on Lots 1-6. The applicant is requesting a variance to allow a 30-foot rear yard setback for Lots 7&8. The rear yard setback variance from the required 40 feet setback in the C-2 district is requested so the applicant can build houses similar to the rest of the plat on Lots 7&8. The plat is surrounded by golf course property and Lots 7 & 8 back up to the creek and well as the golf course. Staff position it to grant a 10-foot variance to allow a 30-foot rear yard setback for Lots 7&8 in The Courts of Otter Creek Plat 2, the requested variance is in harmony with the intended spirit and purpose of the Zoning Ordinance and will not have a negative impact on surrounding property owners or the neighborhood.

Motion by K.Tomlinson to close the public hearing and receive and file documents. Second by C.Dissell. All voted aye. Motion carried 4 – 0.

B.Friest commented that the proposal allows for 2 additional buildable lots, for not much of a tradeoff.

C.Dissell said he has no problem with the zoning district boundary change, and as far as the variance, he believes in the past the Board has considered the surrounding property to the rear and in this case with the golf course, he believes there remains a visual setback.

#### **Board Action on Filing #14-23 for The Courts of Otter Creek Plat 2**

Motion by C.Dissell that the Board of Adjustment approve the requested zone district change, a distance of up to 34 feet, along the western boundary of the proposed plat, The Courts of Otter Creek Plat 2. The Board finds the requested zone district line adjustment falls within the designated guidelines of the exceptions to district boundaries the Board is authorized to grant, and that the health, safety and welfare of the occupants of adjoining and surrounding property is adequately safeguarded. Second by M.Ott. Motion carried 4 – 0.

#### **Board Action on Filing #14-24 for The Courts of Otter Creek Plat 2**

Motion by B.Friest to grant a 10-foot variance to section 192.09(3)(F) which refers to section 192.08 (3)(F) to allow a 30-foot rear yard setback for Lots 7&8 in the proposed plat, The Courts of Otter Creek Plat 2. The Board finds the requested variance is in harmony with the intended spirit and purpose of the Zoning Ordinance and will not have a negative impact on surrounding property owners or the neighborhood. Second by K.Tomlinson. Motion carried 4 – 0.

**#14-26                   Hoang Nguyen  
560 SW 40<sup>th</sup> Street  
Lot 3, Sienna Falls Plat 1  
RE: Rear Yard Setback**

Chairman M.Ott opened the public hearing.

Hoang Nguyen, property owner at 560 SW 40<sup>th</sup> Street explained that he is requesting a setback variance to allow for construction of a roof over the existing deck which is 14' by 16'. He asked the Board's permission to proceed with his plan.

**Staff Report:** J.Gould reported that the request is for a covered deck at 560 SW 40<sup>th</sup> Street in the Siena Hill PUD, where a request for a similar variance was recently brought before the Board that was approved. She said there are two other existing covered decks that Code Enforcement is currently addressing. The Zoning Code allows unenclosed decks to encroach into a rear yard setback up to 12 feet. In this situation, the applicant is proposing not to attach the deck roof to the house, he wants to leave a foot gap between the house and the deck accounting for the difference between the size of the deck and the size of the roof.

B.Friest asked what the roof material will be. Mr.Nguyen responded that it will be a metal roof.

K.Tomlinson asked if deck roofs in prior requests were attached. J.Gould responded that in the cases she has worked on, the roofs were attached to the homes; wood decks with shingled roofs.

B.Friest asked how far the covered decks have encroached in the setback in the past. J.Gould said she recalls the last one in this area may have encroached 3 feet.

B.Friest asked if most of the homes have been built in this area. J.Gould responded that the block is entirely built out with the exception of a lot or 2 under construction.

B.Friest asked if a metal roof is acceptable. E.Jensen said there would be no zoning code regulating that, there may be private covenants.

Mr. Nguyen said that his family uses the area for worship and meditation to honor their ancestors and without a roof it is too hot.

Motion by K.Tomlinson to close the public hearing and receive and file documents. Second by M.Ott. All voted aye. Motion carried 4 – 0.

Correspondence received and filled:

Letter from Katie & Aaron Reynolds, 4002 SW Walnut Street in support of the request.

Letter from Darryl Bresson, Remington Homes, 309 E 1<sup>st</sup> Street, Owner/Developer of Sienna Falls opposing the request.

K.Tomlinson said she has a problem with it being a metal roof and not matching the roof on the house.

B.Friest said the developer, Darryl Bresson, in his letter makes a point, that covered porches should be built according the covenants and city regulations; however two foot is not a deal breaker, it is back yards and when 8 foot fences start going up you're really not going to see anything.

C.Dissell said he has a concern with the materials being used, however, Mr Nguyen could construct a 12 x 16 metal roof and not come before the Board. M.Ott added that anyone who has received a porch roof variance could change from an asphalt shingle to a metal roof.

C.Dissell said that in the past they have taken the configuration of the lot into consideration, granting a variance base on an irregularity of the lot shape. In this case and the last one there are no unique circumstances. He added that it seems there are a lot of these cases coming to the Board.

M.Ott asked if the applicant would be required to come back to the Board if he chose to enclose the covered deck. E.Jensen responded that he would not, once the deck is covered with a roof it's considered part of the principle structure.

B.Friest asked what the depth of the lot is. E.Jensen responded that it is 125 feet deep.

**Board Action on Filing #14-26 for property located at 560 SW 40<sup>th</sup> Street**

Motion by B.Friest that the Board grant a variance to Siena Hills PUD bulk regulations, to allow a 33' foot rear yard setback for an existing covered deck at 560 SW 40th Street. The variance is granted as an exceptional situation based on a determination that the application does not impair adequate supply of air and light, does not increase public danger of fire, or diminish property values and that this request is in harmony with the intended spirit and purpose of the Ankeny Municipal Code. Second by C.Dissell. All voted aye. Motion carried 3 – 1 (Nay: K.Tomlinson)

**REPORTS**

**Renewed Special Use Permits**

#04-21 2010 SE Delaware Avenue - Okoboji Grill

#13-08 2502 SE Tones Drive – Guzman Group Inc. dba Chips

E.Jensen reported that the Special Use Permit renewals for the Outdoor Service Areas were approved administratively following staff review and no report of complaints from police, fire and code enforcement.

There being no further business, the meeting adjourned at 6:30 pm.

Submitted by, Trish Kuhn,

Recording Secretary,  
Zoning Board of Adjustment